

client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by the USPTO Rules of Professional Conduct.

(c) A practitioner shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the practitioner or a person related to the practitioner any substantial gift unless the practitioner or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the practitioner or the client maintains a close, familial relationship.

(d) Prior to the conclusion of representation of a client, a practitioner shall not make or negotiate an agreement giving the practitioner literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) A practitioner shall not provide financial assistance to a client in connection with pending or contemplated litigation or a proceeding before the Office, except that:

(1) A practitioner may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter;

(2) A practitioner representing an indigent client may pay court costs and expenses of litigation or a proceeding before the Office on behalf of the client;

(3) A practitioner may advance costs and expenses in connection with a proceeding before the Office provided the client remains ultimately liable for such costs and expenses; and

(4) A practitioner may also advance any fee required to prevent or remedy an abandonment of a client's application by reason of an act or omission attributable to the practitioner and not to the client, whether or not the client is ultimately liable for such fee.

(f) A practitioner shall not accept compensation for representing a client from one other than the client unless:

(1) The client gives informed consent;

(2) There is no interference with the practitioner's independence of profes-

sional judgment or with the client-practitioner relationship; and

(3) Information relating to representation of a client is protected as required by § 11.106.

(g) A practitioner who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, unless each client gives informed consent, in a writing signed by the client. The practitioner's disclosure shall include the existence and nature of all the claims involved and of the participation of each person in the settlement.

(h) A practitioner shall not:

(1) Make an agreement prospectively limiting the practitioner's liability to a client for malpractice unless the client is independently represented in making the agreement; or

(2) Settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith.

(i) A practitioner shall not acquire a proprietary interest in the cause of action, subject matter of litigation, or a proceeding before the Office which the practitioner is conducting for a client, except that the practitioner may, subject to the other provisions in this section:

(1) Acquire a lien authorized by law to secure the practitioner's fee or expenses;

(2) Contract with a client for a reasonable contingent fee in a civil case; and

(3) In a patent case or a proceeding before the Office, take an interest in the patent or patent application as part or all of his or her fee.

(j) [Reserved]

(k) While practitioners are associated in a firm, a prohibition in paragraphs (a) through (i) of this section that applies to any one of them shall apply to all of them.

§ 11.109 Duties to former clients.

(a) A practitioner who has formerly represented a client in a matter shall

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not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

(b) A practitioner shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the practitioner formerly was associated had previously represented a client:

(1) Whose interests are materially adverse to that person; and

(2) About whom the practitioner had acquired information protected by §§11.106 and 11.109(c) that is material to the matter; unless the former client gives informed consent, confirmed in writing.

(c) A practitioner who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:

(1) Use information relating to the representation to the disadvantage of the former client except as the USPTO Rules of Professional Conduct would permit or require with respect to a client, or when the information has become generally known; or

(2) Reveal information relating to the representation except as the USPTO Rules of Professional Conduct would permit or require with respect to a client.

§ 11.110 Imputation of conflicts of interest; General rule.

(a) While practitioners are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by §§11.107 or 11.109, unless:

(1) The prohibition is based on a personal interest of the disqualified practitioner and does not present a significant risk of materially limiting the representation of the client by the remaining practitioners in the firm; or

(2) The prohibition is based upon §11.109(a) or (b), and arises out of the disqualified practitioner's association with a prior firm, and

(i) The disqualified practitioner is timely screened from any participation

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in the matter and is apportioned no part of the fee therefrom; and

(ii) Written notice is promptly given to any affected former client to enable the former client to ascertain compliance with the provisions of this section, which shall include a description of the screening procedures employed; a statement of the firm's and of the screened practitioner's compliance with the USPTO Rules of Professional Conduct; a statement that review may be available before a tribunal; and an agreement by the firm to respond promptly to any written inquiries or objections by the former client about the screening procedures.

(b) When a practitioner has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated practitioner and not currently represented by the firm, unless:

(1) The matter is the same or substantially related to that in which the formerly associated practitioner represented the client; and

(2) Any practitioner remaining in the firm has information protected by §§11.106 and 11.109(c) that is material to the matter.

(c) A disqualification prescribed by this section may be waived by the affected client under the conditions stated in §11.107.

(d) The disqualification of practitioners associated in a firm with former or current Federal Government lawyers is governed by §11.111.

§ 11.111 Former or current Federal Government employees.

A practitioner who is a former or current Federal Government employee shall not engage in any conduct which is contrary to applicable Federal ethics law, including conflict of interest statutes and regulations of the department, agency or commission formerly or currently employing said practitioner.

§ 11.112 Former judge, arbitrator, mediator or other third-party neutral.

(a) Except as stated in paragraph (d) of this section, a practitioner shall not represent anyone in connection with a